

Message Text

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ORIGIN SS-15

INFO OCT-01 ISO-00 SIG-03 H-02 AF-10 ARA-14 EA-12
EUR-12 NEA-10 L-03 /082 R

DRAFTED BY M:PFKENNEDY

APPROVED BY M:BHREAD

-----060233 081649Z /66

R 072359Z APR 78

FM SECSTATE WASHDC

TO ALL DIPLOMATIC AND CONSULAR POSTS

UNCLAS STATE 090393

INFORM CONSULS

E.O. 11652: N/A

TAGS: OGEN

SUBJECT: CONGRESSIONAL ACCESS TO DEPARTMENTAL INFORMATION

1. THE FOLLOWING MESSAGE FROM SECRETARY VANCE TO ALL
PERSONNEL AND ACCOMPANYING DEPARTMENTAL NOTICE ARE
REPEATED FOR APPROPRIATE ACTION.

2. QUOTE: TO - ALL DEPARTMENT PERSONNEL

RESPONDING TO CONGRESSIONAL REQUESTS FOR INFORMATION

IN KEEPING WITH THIS ADMINISTRATION'S COMMITMENT OF OPEN-
NESS, CANDOR, AND MAXIMUM COOPERATION IN ITS RELATIONS
WITH THE CONGRESS, IT SHALL BE THE POLICY OF THE DEPARTMENT
OF STATE TO EXTEND THE FULL RESOURCES OF THE DEPARTMENT AS
SO AS TO PROVIDE CONGRESS WITH THE INFORMATION IT
REQUIRES TO FULFILL ITS CONSTITUTIONAL ROLE IN THE FORMULA-
TION OF FOREIGN AFFAIRS.

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I ATTACH PARTICULAR IMPORTANCE TO ACHIEVING THIS OBJEC-
TIVE. A CONGRESS NOT ONLY AWARE OF THE FACTS BUT ALSO
INFORMED OF THE REASONS FOR OUR ACTIONS WILL NOT ONLY BE
BETTER ABLE TO MEET ITS OWN RESPONSIBILITIES BUT WILL ALSO

CREATE A BETTER FOUNDATION OF PUBLIC UNDERSTANDING AND
SUPPORT WHICH IS SO ESSENTIAL TO THE SUCCESSFUL CONDUCT
OF U.S. FOREIGN POLICY.

I HAVE REQUESTED THE DEPUTY UNDER SECRETARY FOR MANAGEMENT

TO ESTABLISH GUIDELINES AND PROCEDURES WHICH WOULD ASSURE THAT DEPARTMENTAL RESPONSES TO CONGRESSIONAL REQUESTS FOR INFORMATION ARE AS FULL, PROMPT AND FORTHCOMING AS POSSIBLE. THIS UNDERTAKING WILL IMPOSE SPECIAL RESPONSIBILITIES ON ALL DEPARTMENTAL OFFICERS, PARTICULARLY THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS. BUT EVEN MORE IMPORTANTLY, IT WILL MAKE EFFECTIVE COOPERATION WITH CONGRESS A PERSONAL RESPONSIBILITY FOR EVERY OFFICER. I ASK FOR YOUR UNDERSTANDING AND SUPPORT SO THAT WE MAY STRENGTHEN OUR RELATIONSHIP WITH THE CONGRESS. UNQUOTE

2. DEPARTMENT NOTICE: QUOTE

IN ORDER TO MEET THE OBJECTIVES OF THE SECRETARY'S MEMORANDUM OF APRIL 5, THIS NOTICE AUTHORIZES AND ENCOURAGES ALL OFFICERS TO PROVIDE PROMPT AND FORTHCOMING SUPPORT TO CONGRESSIONAL NEEDS FOR DEPARTMENTAL INFORMATION WITHIN THE GENERAL GUIDELINES SET FORTH BELOW.

APART FROM CONSIDERATION OF EFFICIENT POLICY-MAKING, GOODWILL, AND PRODUCTIVE CONGRESSIONAL RELATIONS, CONGRESS HAS A RIGHT TO INFORMATION. THE ONLY STATUTORY AND OTHER JUSTIFICATIONS FOR WITHHOLDING INFORMATION, INCLUDING CLASSIFIED AND UNCLASSIFIED

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SIFIED INFORMATION FROM CONGRESS ARE SET FORTH IN SECTION II D WITHIN.

THESE GUIDELINES DO NOT CONSTITUTE A COMPLETE CODIFICATION OF ALL TYPES OF CONGRESSIONAL REQUESTS AND NEEDS AND DEPARTMENTAL RESPONSES OR INITIATIVES. AS INDICATED HEREIN, THERE IS A RANGE OF APPROPRIATE RESPONSES RANGING FROM FULL COMPLIANCE IN A GREAT MAJORITY OF CASES TO FLAT DENIAL IN CERTAIN LIMITED INSTANCES WITH MANY REASONABLE AND APPROPRIATE INTERMEDIATE COURSES OF ACTION, AND DECISIONS MUST BE MADE ON A CASE-BY-CASE BASIS. THIS NOTICE DOES PROVIDE GUIDANCE FOR A SUBSTANTIAL PROPORTION OF DEPARTMENT-CONGRESS CONTACTS UNDER WHICH INFORMATION IS SOUGHT AND PROVIDED.

I. UNCLASSIFIED INFORMATION: ORAL AND WRITTEN REQUESTS FOR WRITTEN MATERIAL AND ORAL BRIEFINGS

SUCH REQUESTS SHOULD CONTINUE TO BE HANDLED PROMPTLY UNDER THE FRAMEWORK OF EXISTING PROCEDURES. DEPARTMENTAL OFFICERS ARE ENCOURAGED TO INCREASE THE NUMBER OF UNCLASSIFIED BRIEFINGS PROVIDED TO MEMBERS OF CONGRESS, COMMITTEES, AND CONGRESSIONAL STAFF PERSONS, BOTH

IN RESPONSE TO REQUESTS AND ON THE INITIATIVE OF THE DEPARTMENT.

II. CLASSIFIED INFORMATION: ORAL AND WRITTEN REQUESTS FOR WRITTEN MATERIAL AND ORAL BRIEFINGS.

A. RECEIPT, DEFINITION AND PURPOSE OF REQUEST

REQUESTS FOR DEPARTMENTAL CLASSIFIED INFORMATION MAY BE RECEIVED IN WRITTEN OR ORAL FORM BY H OR DIRECTLY BY BUREAU OFFICERS, WHO SHOULD PROMPTLY NOTIFY H. WHEREVER POSSIBLE OFFICERS SHOULD ENCOURAGE THAT REQUESTS BE MADE IN CORRESPONDENCE SIGNED BY A MEMBER OF CONGRESS AND ADDRESSED TO THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS. IF UNCLASSIFIED

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THIS IS NOT FEASIBLE, THE OFFICER RECEIVING THE REQUEST SHOULD RECORD IT IN A BRIEF MEMORANDUM, WITH A COPY TO H. THE OFFICER RECEIVING THE REQUEST SHOULD ATTEMPT TO GET THE CLEARST POSSIBLE DEFINITION OF THE CLASSIFIED INFORMATION THAT IS BEING SOUGHT AND THE PURPOSE FOR WHICH IT IS NEEDED. DISCUSSION OF THESE POINTS OFTEN RESULT IN REFINING THE REQUEST AND IN MAKING THE RESPONSE MORE RELEVANT AND FEASIBLE. REPEATED EFFORTS TO NARROW THE INQUIRY MAY BE NECESSARY WHEN COMPLIANCE WOULD CAUSE UNDUE BURDENS AND/OR EXPENSES ON THE DEPARTMENT FOR LITTLE OR NO APPARENT PURPOSE.

B. REQUESTING PARTIES AND CLEARANCES

THE AUTHORIZED REQUESTING PARTY MAY BE A MEMBER OF THE CONGRESSIONAL LEADERSHIP, COMMITTEE OR SUBCOMMITTEE CHAIRPERSONS OR MEMBERS, INDIVIDUAL MEMBERS OF CONGRESS, OR CLEARED STAFF MEMBERS OF SENATORS OR REPRESENTATIVES OR COMMITTEES. CLEARED STAFF PERSONS ARE ENTITLED TO THE SAME ACCESS TO INFORMATION WHEN AUTHORIZED BY THE MEMBER. H WILL BE RESPONSIBLE FOR MAINTAINING CURRENT INFORMATION ON THE CLEARANCES OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF PERSONS OR OBTAINING SUCH INFORMATION AS REQUIRED ON A CASE-BY-CASE BASIS.

C. PROCESSING OF REQUESTS

BUREAU CONGRESSIONAL RELATIONS OFFICERS ARE RESPONSIBLE IN THE FIRST INSTANCE FOR THE HANDLING OF CONGRESSIONAL REQUESTS FOR CLASSIFIED INFORMATION UPON RECEIPT FROM S/S, H, OR DIRECTLY. IN ALL CASES, H SHOULD RECEIVE A COPY OF EACH REQUEST. ALL ACTION OFFICERS SHOULD BE GUIDED BY THE FOLLOWING PRINCIPLES. UNCLASSIFIED

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1. ANY CLASSIFIED DOCUMENT SHOULD BE REVIEWED INITIALLY FOR POSSIBLE DOWNGRADING OR DECLASSIFICATION.
2. THE REQUEST SHOULD BE MET AS FULLY AND THOROUGHLY AS

POSSIBLE WITHIN THE LIMITATIONS SET FORTH IN SECTION D. THE QUALITY, CANDOR, AND THOROUGHNESS OF THE RESPONSE IS OF PRIMARY IMPORTANCE.

INQUIRIES REGARDING ACTIONS OR DECISIONS PREVIOUSLY TAKEN SHOULD BE MET FULLY, INCLUDING AN ACCOUNT OF THE CIRCUMSTANCES AND FACTORS INVOLVED, AND REASONS FOR THE DECISION OR ACTION CHOSEN. SPECIAL MEMORANDA, CHRONOLOGIES, OR SUMMARIES, WITH APPROPRIATE BACKUP DOCUMENTATION, PARTICULARLY WHEN ACCOMPANIED BY OFFERS OF ORAL BRIEFINGS, MAY ANSWER CONGRESSIONAL NEEDS BETTER THAN MORE VOLUMINOUS LITERAL RESPONSES TO REQUESTS. THE OPTIMUM FORM IN WHICH INFORMATION IS PROVIDED WILL, THEREFORE, NEED TO BE DETERMINED IN THE PARTICULAR CIRCUMSTANCES OF EACH CASE IN ORDER TO SATISFY BOTH CONGRESSIONAL NEED TO KNOW AND APPLICABLE CONSTRAINTS SET FORTH BELOW.

3. CONGRESSIONAL REQUESTS FOR INFORMATION REQUIRE PROMPT AS WELL AS RESPONSIBLE HANDLING. THE TIMELINESS OF THE RESPONSE MAY BE ESSENTIAL. IF COMPLIANCE WITH THE 3-DAY RULE IS NOT POSSIBLE, H SHOULD BE CONSULTED TO SET AN APPROPRIATE DEADLINE.

4. IN A SUBSTANTIAL MAJORITY OF CASES BUREAUS WILL BE ABLE TO DETERMINE HOW REQUESTS SHOULD BE ANSWERED OR NOT ANSWERED, IN CONSULTATION WITH H AND L AS APPROPRIATE, AND THE RESPONSE WILL BE RETURNED TO THE HILL BY H. IF THE BUREAU AND H AGREE, A BUREAU OFFICER MAY BE ASKED TO ACCOMPANY AND TO EXPLAIN THE RESPONSE.

5. IF A BUREAU DIFFERS WITH H ON A SUBSTANTIVE RESPONSE, WHETHER POSITIVE OR NEGATIVE, THE MATTER SHOULD BE PROMPTLY UNCLASSIFIED

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REFERRED BY THE ACTION OFFICE WITHIN THE ESTABLISHED DEADLINE, WITH THE VIEWS OF THE BUREAU, H, AND L CLEARLY INDICATED, TO THE DEPUTY UNDER SECRETARY FOR MANAGEMENT FOR DECISION BY M OR, ON REFERENCE FROM M, BY ANOTHER SEVENTH FLOOR PRINCIPAL AS APPROPRIATE.

6. PHYSICAL POSSESSION OF ANY CLASSIFIED INFORMATION REQUIRES ADEQUATE STORAGE FACILITIES AND ACCESS CONTROL, AND H, RELYING ON SY ADVICE IS RESPONSIBLE FOR DETERMINING WHETHER ADEQUATE SECURITY ARRANGEMENTS EXIST. THE ONLY CIRCUMSTANCES IN WHICH MEMBERS WHO ARE GIVEN ACCESS TO CLASSIFIED INFORMATION SHOULD NORMALLY BE ASKED TO READ BUT NOT RETAIN SUCH MATERIAL ARE WHEN: (A) NO ADEQUATE STORAGE/CONTROL FACILITIES ARE AVAILABLE, OR (B) THE DOCUMENT IS SO SENSITIVE THAT COMPARABLE ACCESS LIMITATIONS ARE ENFORCED IN THE DEPARTMENT, E.G. NODIS, EXDIS, ETC.

D. CONSTRAINTS

THE FOLLOWING CONSTRAINTS MAY REQUIRE EDITING OF MATERIAL

PROVIDED, OR PARTIAL OR FULL REFUSAL OF CONGRESSIONAL REQUESTS, ALTHOUGH AS MUCH INFORMATION AS POSSIBLE THAT DOES NOT FALL WITHIN THE PURVIEW OF THESE LIMITATIONS SHOULD BE PROVIDED IN ALL CASES. DIFFERENCES AS TO THE APPLICABILITY OF THESE CONSTRAINTS WILL BE RESOLVED AS PROVIDED IN C ABOVE.

1. RELEASE OF THE INFORMATION REQUESTED MAY BE LIMITED OR PROSCRIBED BY STATUTE, REGULATION, OR PRESIDENTIAL ORDER. CONSULTATION WITH THE LEGAL ADVISER'S OFFICE SHOULD OCCUR ON DIFFICULT ISSUES. (NOTE: CONVERSELY, A STATUTE, REGULATION, OR PRESIDENTIAL ORDER MAY PROVIDE FOR DISCLOSURE OF THE REQUESTED INFORMATION TO CONGRESS OR TO UNCLASSIFIED

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THE PUBLIC.)

(ONLY THE PRESIDENT MAY INVOKE EXECUTIVE PRIVILEGE; NO OTHER PERSON MAY ASSERT IT OR DECIDE ON THE PRESIDENT'S BEHALF TO INVOKE IT. THE DEPARTMENT MAY RECOMMEND THAT HE INVOKE IT, BUT SUCH A RECOMMENDATION WOULD BE MADE ONLY WHEN DEEMED ABSOLUTELY ESSENTIAL.)

2. DOCUMENTS SHOULD BE PROVIDED IN A FORM THAT DOES NOT IDENTIFY DRAFTING OFFICERS OR PROPONENTS OR OPPONENTS OF PARTICULAR VIEWS OR POSITIONS IN ORDER TO PROTECT THE INTERNAL DELIBERATION PROCESS. SIMILARLY, INFORMATION REVEALING INTERNAL DISCUSSIONS AND RECOMMENDATIONS SHOULD NOT BE PROVIDED.

3. INFORMATION REVEALING INTELLIGENCE SOURCES AND METHODS SHOULD BE PROTECTED.

4. IF THE INFORMATION REQUESTED CONSTITUTES ADVICE OR RECOMMENDATIONS TO THE WHITE HOUSE OR IT ORIGINATES IN THE WHITE HOUSE OR ANOTHER AGENCY, THE REQUESTER SHOULD BE REFERRED TO THE AGENCY CONTROLLING SUCH INFORMATION.

5. INFORMATION OBTAINED UNDER CONDITIONS REQUIRING AGREEMENT OF THE ORIGINATOR FOR RELEASE (E.G., CONFIDENTIAL COMMUNICATION FROM FOREIGN GOVERNMENTS, PROPRIETARY INFORMATION, ETC.) SHOULD NOT BE RELEASED WITHOUT SUCH AGREEMENT.

6. RECORDS OF NEGOTIATIONS ORDINARILY CANNOT BE PROVIDED. HOWEVER, WHERE COMPLIANCE IS DEEMED ESSENTIAL, THE MATTER SHOULD BE DISCUSSED WITH L TO DETERMINE WHETHER SUMMARIES OR OTHER HANDLING WOULD BE APPROPRIATE.

E. SPECIAL HANDLING

WHILE THE BASIC TERMS OF THIS NOTICE APPLY TO THE BULK UNCLASSIFIED

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OF CONGRESSIONAL REQUESTS, SPECIAL HANDLING IS REQUIRED IN SOME CASES. DOCUMENTATION UNDER THE CONTROL OF S/S REQUIRES S/S CLEARANCE AND RELEASE. BF/OAG COORDINATES ALL REQUESTS OF GAO, WHICH ARE TO BE HANDLED ON THE SAME BASIS AS CONGRESSIONAL COMMITTEE STAFF REQUESTS. REQUESTS FOR INTELLIGENCE MATERIAL SHOULD BE REFERRED TO INR; FOR INSPECTION INFORMATION TO S/IG; FOR BUDGET INFORMATION TO A; FOR PERSONNEL INFORMATION TO DGP. THESE OFFICES ARE RESPONSIBLE FOR DEVELOPING THEIR OWN FURTHER INTERNAL GUIDANCE, IN COORDINATION WITH H AND L, AND WILL KEEP H FULLY INFORMED OF THEIR ACTIONS ON CONGRESSIONAL REQUESTS.

F. INQUIRIES TO THE FIELD

FIELD POSTS RECEIVING CONGRESSIONAL REQUESTS SHOULD BE GUIDED BY THESE INSTRUCTIONS; IN THE CASE OF GAO, ADDITIONAL GUIDANCE IS PROVIDED BY BF/OAG. PROBLEMS SHOULD BE PROMPTLY REFERRED TO THE DEPARTMENT.

G. ORAL BRIEFINGS

WHEN CLASSIFIED MATERIAL IS REQUESTED IN ORAL BRIEFINGS, OR ALTERNATIVELY WHEN AN OFFICER TAKES THE INITIATIVE IN OFFERING AN ORAL BRIEFING CONTAINING CLASSIFIED INFORMATION TO MEMBERS OF CONGRESS OR THEIR STAFFS, THE GUIDELINSS ABOVE ARE APPLICABLE. DEPARTMENT OFFICERS ARE ENCOURAGED TO PROVIDE FREQUENT ORAL BRIEFINGS, INCLUDING CLASSIFIED INFORMATION, UNDER APPROPRIATE CIRCUMSTANCES TO MEMBERS OF CONGRESS AND THEIR STAFFS.

III. PROVISION OF OTHER INFORMATION TO THE CONGRESS

AFTER CONSULTATION WITH THE BUREAUS CONCERNED, AND THE UNCLASSIFIED

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CONCURRENCE OF M IF THERE ARE DIFFERENCES OF VIEW, H WILL DISCUSS WITH RELEVANT CONGRESSIONAL COMMITTEES THEIR INTEREST IN RECEIVING ON A SYSTEMATIC BASIS REGULAR OR PERIODIC DEPARTMENTAL BRIEFINGS AND/OR WRITTEN PRODUCTS, CLASSIFIED AS WELL AS UNCLASSIFIED, WHICH MIGHT BE HELPFUL TO ENABLE THEM TO BETTER FULFILL THEIR RESPONSIBILITIES, SUCH AS CURRENT FOREIGN RELATIONS, CERPS, CERTAIN INR REPORTS, ETC. AND UNDERTAKE TO PROVIDE THE APPROPRIATE BRIEFINGS AND MATERIAL.

AFTER CONSULTATION WITH THE BUREAUS CONCERNED, H WILL OFFER TO INTERESTED COMMITTEES SITUATION REPORTS, BRIEFINGS, AND OTHER MATERIAL ON CRISES AND OTHER SITUATIONS OF

SPECIAL TOPICAL IMPORTANCE, AND ARRANGE WITH THE APPROPRI-

ATE BUREAUS TO PROVIDE THE SAME.

THIS DEPARTMENT NOTICE PLACES SUBSTANTIAL, ENLARGED
RESPONSIBILITIES ON BUREAU CONGRESSIONAL RELATIONS OFFICERS
AND THE OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL
RELATIONS. THEY WILL NEED THE FULL COOPERATION AND SUPPORT
OF ALL BUREAUS IN CARRYING THEM OUT.

THIS MATERIAL WILL BE CODIFIED IN THE FOREIGN AFFAIRS
MANUAL.

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<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 07 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE090393
Document Source: ADS
Document Unique ID: 00
Drafter: M:PFKENNEDY
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
Film Number: D780152-0788
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197804109/baaafciy.tel
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Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 7d36bda6-c288-dd11-92da-001cc4696bcc
Office: ORIGIN SS
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2829726
Secure: OPEN
Status: NATIVE
Subject: CONGRESSIONAL ACCESS TO DEPARTMENTAL INFORMATION
TAGS: OGEN
To: ALL DIPLOMATIC AND CONSULAR POSTS
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/7d36bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014